

CHAPTER 2: ADMINISTRATION OF CIVIL CASES

RULE 200 - Applicability

Unless otherwise specified, the provisions of this Chapter shall apply to all general civil cases, as defined in Rule 102.

(01/01/99)

RULE 201 - Case Disposition Time Standards

The Kings County Courts adopt the case disposition time standards set forth in sections 2.1 and 2.3 of the California Standards of Judicial Administration and the Economic Litigation Act.

The Kings County Courts shall endeavor to dispose of all general civil cases as follows: 90% within 12 months after filing; 98% within 18 months after filing; 100% within 24 months after filing.

(01/01/99)

RULE 202 - Service of Summons, and Filing of Proof of Service

- (A) A plaintiff shall serve all named defendants, return and file the original summons and proof of service within 60 days from the date the complaint is filed.
- (B) Except as otherwise provided by law, the court may extend any time requirements for service of process or for the filing of the proof of service and return of summons upon good cause shown.
- (C) When applying to the court to extend time to file the return of the summons and proof of service based upon the conditions stated in Code of Civil Procedure section 583.240, the plaintiff shall set forth in the motion the earliest date within which service may reasonably be effected so that the court may set a date certain for service and filing of a proof of service.
- (D) In personal injury cases, "good cause" for an extension of time to serve a named defendant may be established where the plaintiff's declaration affirmatively shows that the defendant's insurance carrier has been advised that an action has been filed and that settlement negotiations are in progress which are likely to resolve the case without further litigation. Upon such showing, the court may extend the time for service of the complaint to a date certain within which time it appears reasonable that negotiations can be concluded.

(01/01/99)

RULE 202.5 Uninsured Motorist Cases

An action for personal injury or property damage against an uninsured Defendant may be designated an "uninsured motorist case" upon application or declaration of the Plaintiff filed at the time of filing the complaint or at any time thereafter. Said application or declaration should state the following:

- (A) All of the named Defendants are believed to be uninsured and the action is filed to protect the running to the statute of limitations in the event that insurance is later discovered or Plaintiff, after filing the action, has learned that all of the Defendants are uninsured;
- (B) In resolving the case with the Defendants, it has been determined that Defendants were underinsured within the meaning of Plaintiff's policy, which provides underinsured motorist coverage; and
- (C) Plaintiff is proceeding in action with his or her insurer under the insured or underinsured motorist provision of the insurance policy, and does not intend to proceed in the action against the uninsured Defendants.

Upon the filing of such an application or declaration by Plaintiff, the court shall designate the case an uninsured motorist case and shall place it on a review calendar. Further, Plaintiff need not comply with Rule 202 upon said designation. Plaintiff shall file with the court a certificate of progress every ninety days, advising the court of the status of his claim against his insurer and the progress of the arbitration proceeding, if any.

In the event that Plaintiff's claim against his insurer is not resolved within one year of the filing of the action, the court may require Plaintiff or Plaintiff's counsel to appear for a hearing to determine when the matter will be resolved and/or if the action should be dismissed or reclassified as general civil litigation.

(01/01/99)

RULE 203 - At Issue Memorandum

- (A) In all general civil cases, Plaintiff shall file and serve an at issue memorandum within 120 days from the date the complaint is filed, unless there is a final disposition of the case.
- (B) The at issue memorandum and counter at issue memorandum shall comply with Rules 209 and 507 of the California Rules of Court, as applicable, and

shall be submitted on a court approved form, which is available from the clerk's office. The submitted form shall be signed by an attorney appearing for a party or by a self-represented party. The submitted form shall include a proof of service.

- (C) Any party submitting an at issue memorandum or counter at issue memorandum shall designate which dates, if any, that party is not available for trial and whether the case is entitled to priority setting. Priority shall be deemed waived unless the at issue memorandum states that the case is entitled to priority setting, as well as the legal authority for a priority setting.
- (D) If a timely at issue memorandum is not filed the case shall be set for a status hearing under Rule 205.
(01/01/99)

RULE 204 - Trial Setting

- (A) After the filing of the at issue memorandum and counter at issue memorandum all parties shall be notified by the clerk of the court of the date and time of trial, and the date and time of the settlement conference.
- (B) If any party has a conflict with the trial date assigned, immediately upon knowledge of the conflict, that party shall submit a letter to the Court and to all other parties notifying them of the conflict. The court shall maintain the trial date unless a motion for continuance has been granted. The informal letter called for in this rule does not constitute a motion for continuance.
(01/01/99)

RULE 205 - Status Hearing

- (A) If the court orders a status hearing counsel for each party and each self represented party shall, at least 5 days before the date of hearing, file and serve a declaration under penalty of perjury which states:
 - (1) That the declarant has complied with any applicable time standard set forth in Rule 202, or, a detailed explanation of the declarant's failure to comply including all efforts made by the declarant to comply with the time standard;
 - (2) A detailed explanation of any reason why an at issue memorandum was not filed within 120 days after the complaint was filed or, if applicable, why the at issue memorandum was stricken or the case was otherwise dropped from the civil active list;

- (3) A recital of the party's version of the facts of the case;
 - (4) Any factors which may bring the case within the definition of "complex civil case";
 - (5) All facts, which may assist the court in determining whether or not, the case is suitable for an order:
 - (a) Referring the case for judicial arbitration;
 - (b) Transferring the case to another court;
 - (c) Consolidating the case with other actions;
 - (d) Coordinating the case with other actions;
 - (e) Severing issues or bifurcating trial;
 - (f) Setting a voluntary settlement conference;
 - (6) A proposed discovery plan and schedule;
 - (7) Any other facts which may assist the court in managing the case so that it may be concluded within 12 months from the filing of the complaint.
- (B) Counsel for each party and each self represented party appearing in the action shall attend the status hearing and shall be fully prepared, with appropriate authority to discuss and dispose of all matters mentioned in this Rule.
- (C) At or after the status hearing the court may make all orders it deems appropriate, including but not limited to any one or more of the following:
- (1) Referring the case to judicial arbitration;
 - (2) Transferring the case to another court;
 - (3) Severing issues or bifurcating trial;
 - (4) Consolidating the action with one or more other actions;
 - (5) Establishing a discovery plan and schedule;
 - (6) Setting a voluntary settlement conference;
 - (7) Directing one or more parties to effect service of process, file specified motions, or take other specified actions within specified time periods;

- (8) Designating the case as a "complex civil case";
- (9) Appointing a judge for all purposes;
- (10) Directing that one or more parties file a certificate of diligence as to specified future proceedings;
- (11) Imposing sanctions pursuant to state and local court rules.
- (12) Assigning trial dates.
(01/01/99)

RULE 206 - Complex General Civil Cases

- (A) Complex general civil cases shall be exempt from the court's policy to dispose of all general civil cases within 24 months after filing. Upon the court's finding of exemption, the court shall establish a regular monitoring program for the case to assure that it is progressing to a disposition in a timely fashion consistent with its particular needs.
- (B) The court may, on the noticed motion of a party or on the court's own motion, order the assignment of any case to one judge for all or such limited purposes as will promote the efficient administration of justice in accordance with the California Rules of Court and the Standards of Judicial Administration.
(01/01/99)

RULE 207 - Mandatory Settlement Conference

- (A) The Court may order a settlement conference in any case. A mandatory settlement conference shall be held for every civil case set for trial, except as follows:
 - (1) Small claims, unlawful detainers, and short cause cases; or
 - (2) By order of the court for good cause, based upon a motion addressed to the court citing this rule, filed and served on all other parties at least 60 days prior to trial. Opposition to the motion shall be in writing, addressed to the court, filed and served on all parties no later than 10 days after service of the motion. There will be no oral argument on such motions. Parties will be notified of the court's ruling. Good cause requires facts supporting the conclusion that it would be extremely unlikely that a settlement conference might be helpful.

(B) Attendance at Settlement Conferences

The Court will strictly enforce Rule 222 of the California Rules of Court.

- (1) Parties – All parties shall be personally present at the settlement conference except that an insured party is not required to appear where that party's insurance carrier admits coverage for all causes of action alleged against that party, full authority has been granted by such insured party to the carrier and attorney to settle within policy limits, and the highest demand for settlement is within policy limits. A party who is not an individual shall appear by a representative who shall be fully familiar with the facts of the case and have full authority to settle.
- (2) Insurance Carrier Employee – In any case which requires consent of an insurance carrier to settle, an employee of the insurance carrier who is fully familiar with the case and who has full authority to settle shall be personally present at the settlement conference. A claims adjuster retained only for the purpose of attending the settlement conference will not be deemed to comply with this Rule.

(01/01/99)

RULE 208 - Settlement Conference Statement

- (A) Each party shall mail to the court and serve on all parties a settlement conference statement, in pleading or letterform, at least 5 days prior to the settlement conference.
- (B) In addition to the subject matter required by Rule 222 of the California Rules of Court, the settlement conference statement shall contain:
 - (1) The caption shall include the date and time of the settlement conference and the trial.
 - (2) A summary of the case including the identities of all parties and their counsel and the identity of any parties who may have been dismissed from the action.
 - (3) A summary of what counsel considers to be the material facts of the case shall be set forth with particularity. In a personal injury case copies of any official accident report and relevant medical summary reports shall be attached. If medical testimony is expected for which

no summary report is available, counsel shall set forth a summary of the expected medical testimony with identity of the expert medical witnesses.

- (4) Legal contentions set forth with particularity and citations of authority.
 - (5) An itemized list of all special damages claimed. If wage loss is claimed, the settlement conference statement shall explain the method of computation of claimed loss of earnings, earning capacity, or lost profits.
 - (6) A description of all previous settlement negotiations.
 - (7) A detailed description of any conflicts or other problems, which could prevent the case from going to trial on the date, scheduled if no settlement is reached.
 - (8) A description of any motions in-limine to be brought at the time of trial.
- (01/01/99)

RULE 209 - Further Settlement Conferences

To ensure a meaningful settlement conference prior to trial, the court may set the matter for further settlement conferences prior to the date set for trial, or may remove the case from the trial calendar and order the parties to obtain a new settlement conference and trial date.

A party's failure to comply with one or more of the state or local court rules pertaining to settlement conferences may result in an order for a further settlement conference with the offending party being required to pay the costs and attorney fees incurred by other parties due to the non-adherence to the rules.

(01/01/99)

RULE 210 - Conditional Settlements

If a case is settled pursuant to a conditional settlement agreement making dismissal of the case conditional upon performance of the settlement terms, the settling parties shall file with the court a notice of conditional settlement. The notice of conditional settlement shall be in declaration form and shall set forth the terms of the agreement, unless confidential, and the date on which dismissal is to be filed. Agreements containing confidential terms may be submitted to the court under seal.

The parties shall also submit a proposed order, designating the case as "inactive" until the dismissal date, when it shall be returned to active status if no dismissal has been filed.

If a request for dismissal has not been filed by the dismissal date, the court may schedule the case for a settled case status conference. Counsel for the settling parties shall appear at the hearing to show cause why the case should not be dismissed. Unless good cause is shown, the case may be dismissed. If good cause is shown, the court may set deadlines or make such other orders it deems appropriate.

(01/01/99)

RULE 211 - Final Disposition Prior to Settlement Conference or Trial

If a case is settled, dismissed or otherwise finally disposed of prior to trial, the parties shall promptly comply with Rule 225 of the California Rules of Court.

(01/01/99)

RULE 212 - Continuances

(A) No time standard or deadline specified in these rules, nor any schedule, date, time limitation or other requirement imposed by any court order or pursuant to these rules may be modified, extended or voided by any stipulation or agreement of the parties unless a written order approving the same is first obtained from the court. Such order may be obtained only upon a showing of good cause by noticed motion, or by ex-parte application made pursuant to these rules before the expiration of any filing or submission deadline or scheduled date.

(B) No trial date may be vacated or continued, except for good cause upon a duly noticed motion. Such motion must be heard at least 12 court days prior to trial, except for good cause. A stipulation by all parties to a continuance of the trial date does not constitute good cause or compliance with this rule.

(01/01/99)

(RULES 213 - 299 Reserved)